

§ 614.4351

lease, contracts of sale, notes receivable, other similar obligations, guarantees, and all types of leases. An institution “makes a loan or lease” when it enters into a commitment to lend or lease, advances new funds, substitutes a different borrower or lessee for a borrower or lessee who is released, or where any other person’s liability is added to the outstanding loan, lease or commitment.

(d) *Primary liability* means an obligation to repay that is not conditioned upon an unsuccessful prior demand on another party.

(e) *Secondary liability* means an obligation to repay that only arises after an unsuccessful demand on another party.

[58 FR 40321, July 28, 1993, as amended at 64 FR 34517, June 28, 1999]

§ 614.4351 Computation of lending and leasing limit base.

(a) *Lending and leasing limit base.* An institution’s lending and leasing limit base is composed of the permanent capital of the institution, as defined in § 615.5201 of this chapter, with adjustments applicable to the institution provided for in § 615.5207 of this chapter, and with the following further adjustments:

(1) Where one institution invests in another institution in connection with the sale of a loan participation interest, the amount of investment in the institution purchasing this participation interest that is owned by the institution originating the loan shall be counted in the lending and leasing limit base of the originating institution and shall not be counted in the lending and leasing limit base of the purchasing institution.

(2) Stock protected under section 4.9A of the Act may be included in the lending and leasing limit base until January 1, 1998.

(3) Any amounts of preferred stock not eligible to be included in total surplus as defined in § 615.5301(i) of this chapter must be deducted from the lending limit base.

(b) *Timing of calculation.* The lending limit base will be calculated on a

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monthly basis as of the preceding month end.

[58 FR 40321, July 28, 1993, as amended at 59 FR 37403, July 22, 1994; 64 FR 34517, June 28, 1999; 70 FR 35348, June 17, 2005; 70 FR 53907, Sept. 13, 2005]

§ 614.4352 Farm Credit Banks and agricultural credit banks.

(a) *Farm Credit Banks.* No Farm Credit Bank may make or discount a loan to a borrower if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 15 percent of the bank’s lending and leasing limit base.

(b) *Agricultural credit banks.* (1) No agricultural credit bank may make or discount a loan to a borrower under the authority of title I of the Act if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 15 percent of the bank’s lending and leasing limit base.

(2) No agricultural credit bank may make or discount a loan to a borrower under the authority of title III of the Act if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed the lending and leasing limits prescribed in § 614.4355 of this subpart.

[58 FR 40321, July 28, 1993, as amended at 64 FR 34517, June 28, 1999; 76 FR 29997, May 24, 2011]

§ 614.4353 Direct lender associations.

No direct lender association may make a loan to a borrower if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 15 percent of the association’s lending and leasing limit base.

[58 FR 40321, July 28, 1999, as amended at 64 FR 34517, June 28, 1999; 76 FR 29997, May 24, 2011]

§ 614.4354 [Reserved]

§ 614.4355 Banks for cooperatives.

No bank for cooperatives may make a loan if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceeds the following percentages of the lending and leasing limit base of the bank: